srp.

HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2875 OF 2007.

The State of Maharashtra & others...Petitioners.
Versus.
Suresh Mahadev Karande. ..Respondent.

Girish Kulkarni a/w Ashok J. Chougule for the respondent no.1.

S. R. Nargolkar, A.G.P. for the State.

ALONG WITH
WRIT PETITION NO. 2167 OF 2007.

Pundalik Tukaram Umare. ..Petitioner.
Versus.
The State of Maharashtra. ..Respondents.

CORAM: S. B. MHASE &
S. R. SATHE,JJ.

DATE: JULY 2, 2007.

P.C.

1. We have heard the parties. The dispute is about the promotion. The petitioner - Government is having three posts of Joint Director available for promotion. Out of these three posts one post is reserved while two posts are for open category. The candidate who was appointed against reserved category post was possessed of good qualification and marks. He was appointed on the basis of his seniority-cum-fitness than the candidates who were from the open category. The said candidate challenged the selection contending that since he has obtained the highest number of marks, therefore he should have been absorbed as against the open category

post and not against the reserved category and one more reserved category candidate should be permitted.

. In short, he wants to say that the candidate who has secured the highest marks will go against the open category and a reserved category candidate will come against reserved post and, therefore, only one open category candidate can be permitted. This contention of the respondent has been accepted by the Tribunal relying upon the decisions of the Apex Court, more specifically the decision in R.K.Sabarwal v/s. the State of Punjab and others. This order of the Tribunal is challenged by the Government on the ground that the Government Resolution provides otherwise. We, however, feel that in view of the pronouncement of the Apex Court the Government Resolutions are no more good laws. We find that the maximum opportunity should be given to the reserved category candidates, more specifically if the reserved category candidates are having sufficient qualifications and are meritorious. That opportunity should not be denied to the reserved category candidates. That is the spirit of the competition. We find no substance in the petition. Both Petitions are rejected.

(S.R.SATHE,J.) **(S.B.MHASE, J.)**